

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

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MAY 29 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

MM Docket No. 96-70

UNDER HIS DIRECTION, INC.

Order to Show Cause Why the
License for Station KUHD(AM)
Port Neches, Texas Should
Not Be Revoked

DOCKET FILE COPY ORIGINAL

To: Administrative Law Judge
Edward Luton

MASS MEDIA BUREAU'S COMMENTS ON REPLY TO OPPOSITION TO
PETITION FOR LEAVE TO INTERVENE

1. On May 2, 1996, Vision Latina, Inc. ("Vision") filed a petition for leave to intervene in the above captioned proceeding. On May 13, 1996, The Mass Media Bureau filed an opposition to Vision's petition. On May 23, 1996, Vision filed a reply to the Bureau's opposition. Because Vision's reply raises a new basis for its intervention in this proceeding, i.e., the filing of an assignment application, the Bureau requests that the Presiding Judge accept and consider the Bureau's instant comments.¹

2. The Bureau continues to oppose Vision's intervention in this proceeding. Vision still has no cognizable interest in the license for Station KUHD(AM). Vision cites no authority for the

¹ In the alternative, the Presiding Judge may deny Vision's petition for leave to intervene without reference to the new matter contained in the reply. Vision would then be free to file a second petition for leave to intervene based on the new facts.

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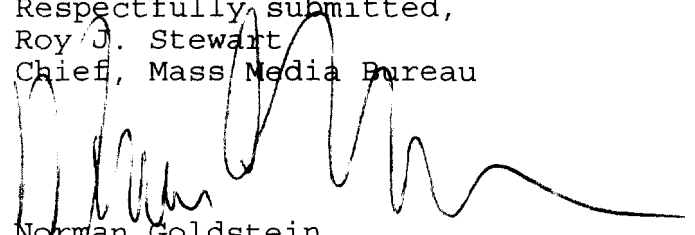
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proposition that the mere filing of an application for assignment of a broadcast station creates an interest in that station in the proposed assignee. Until such time (if ever) as its assignment application is granted, Vision's interest remains inchoate. As the Bureau noted in its opposition to Vision's petition for leave to intervene, "Vision has no cognizable interest in this proceeding and will not have any such interest until and unless a transfer of KUHD(AM) is approved by the Commission." The Mass Media Bureau's policy in silent station cases is not to approve such assignments.

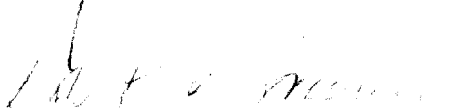
3. Vision's reliance on TDS v. FCC, 19 F.3d 42, 74 RR3d 1327 (D.C. Cir 1994) for the proposition that the filing of the transfer application gives it status to participate in this proceeding, is misplaced. In TDS the court granted an entity which had an option to buy a controlling interest in a licensee standing to seek judicial review of an FCC decision which adversely affected the option holder's contract with the licensee. That option gave the option holder the right to cancel any contracts in excess of a certain dollar amount. The court held that the loss of the contractual right constituted commercial injury sufficient to invoke standing. In the instant case, no such showing of direct commercial injury has been presented. No right of Vision with respect to the licensee has been abrogated and consequently Vision does not have standing in this proceeding.

4. In sum, the Presiding Judge should deny Vision's request to intervene.

Respectfully submitted,
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Chief, Mass Media Bureau



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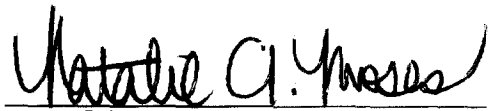
May 29, 1996

CERTIFICATE OF SERVICE

Natalie Moses, a secretary in the Hearing Branch, Mass Media Bureau certifies that she has on this 29th day of May 1996, sent by regular United States mail, U.S. Government frank, copies of the foregoing "**Mass Media Bureau's Comments on Reply to Opposition to Petition for Leave to Intervene**" to:

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